

Exhibit A

SUM-100

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)ELECTRONICALLY FILED
Superior Court of California
County of Alameda

12/03/2021

Chad Finke, Executive Officer / Clerk of the Court

By: Xian-xii Bowie Deputy

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

SMILEDIRECTCLUB, INC.; and SMILEDIRECTCLUB, LLC; JEFFREY SULITZER; DOES 1-10,

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

ARNOLD NAVARRO, on behalf of himself and all others similarly situated,

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is: Oakland - René C. Davidson Courthouse
(El nombre y dirección de la corte es): 1225 Fallon Street
Oakland, California 94612

CASE NUMBER: (Número del Caso):

21CV003537

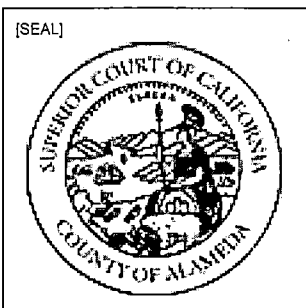
The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

BLAKE J. LINDEMANN; 433 N. Camden Drive, 4th Floor, Beverly Hills, CA 90210; (310) 279-5269; (310) 300-0267

DATE: December 3, 2021 Clerk, by Xian-xii Bowie Deputy
(Fecha) Chad Finke, Executive Officer / Clerk of the Court (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):
- ☒ on behalf of (specify): Smiledirectclub, Inc.
under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
- ☐ by personal delivery on (date):

Page 1 of 1

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): LINDEMANN LAW FIRM, APC Blake J. Lindemann, SBN 255747 433 N. Camden Drive, 4th Floor, Beverly Hills, CA 90210 TELEPHONE NO.: (310) 279-5269 FAX NO. (Optional): (310) 300-0267 E-MAIL ADDRESS: blake@lawbl.com ATTORNEY FOR (Name): Plaintiff, Arnold Navarro		FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of Alameda 12/03/2021 at 03:56:49 PM By: Xian-xii Bowie, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: Same as above. CITY AND ZIP CODE: Oakland, California 94612 BRANCH NAME: Oakland - René C. Davidson Courthouse		
CASE NAME: Arnold Navarro v. SmileDirectClub, Inc., et al.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: 21CV003537 JUDGE: DEPT.:

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input checked="" type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): 7
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 3, 2021

Blake J. Lindemann

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

F. ADDENDUM TO CIVIL CASE COVER SHEET

Short Title: Arnold Navarro v. DirectSmileClub, Inc., et al.

Case Number:

CIVIL CASE COVER SHEET ADDENDUM

THIS FORM IS REQUIRED IN ALL NEW UNLIMITED CIVIL CASE FILINGS IN THE
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

[] Hayward Hall of Justice (447)

[X] Oakland, Rene C. Davidson Alameda County Courthouse (446)

[] Pleasanton, Gale-Schenone Hall of Justice (448)

Civil Case Cover Sheet Category	Civil Case Cover Sheet Case Type	Alameda County Case Type (check only one)
Auto Tort	Auto tort (22)	[] 34 Auto tort (G) Is this an uninsured motorist case? [] yes [] no
Other PI /PD / WD Tort	Asbestos (04) Product liability (24) Medical malpractice (45) Other PI/PD/WD tort (23)	[] 75 Asbestos (D) [] 89 Product liability (not asbestos or toxic tort/environmental) (G) [] 97 Medical malpractice (G) [] 33 Other PI/PD/WD tort (G)
Non - PI /PD / WD Tort	Bus tort / unfair bus. practice (07) Civil rights (08) Defamation (13) Fraud (16) Intellectual property (19) Professional negligence (25) Other non-PI/PD/WD tort (35)	[] 79 Bus tort / unfair bus. practice (G) [] 80 Civil rights (G) [] 84 Defamation (G) [] 24 Fraud (G) [] 87 Intellectual property (G) [] 59 Professional negligence - non-medical (G) [] 03 Other non-PI/PD/WD tort (G)
Employment	Wrongful termination (36) Other employment (15)	[] 38 Wrongful termination (G) [] 85 Other employment (G) [] 53 Labor comm award confirmation [] 54 Notice of appeal - L.C.A.
Contract	Breach contract / Wrnty (06) Collections (09) Insurance coverage (18) Other contract (37)	[] 04 Breach contract / Wrnty (G) [] 81 Collections (G) [] 86 Ins. coverage - non-complex (G) [X] 98 Other contract (G)
Real Property	Eminent domain / Inv Cdm (14) Wrongful eviction (33) Other real property (26)	[] 18 Eminent domain / Inv Cdm (G) [] 17 Wrongful eviction (G) [] 36 Other real property (G)
Unlawful Detainer	Commercial (31) Residential (32) Drugs (38)	[] 94 Unlawful Detainer - commercial [] 47 Unlawful Detainer - residential [] 21 Unlawful detainer - drugs Is the deft. in possession of the property? [] Yes [] No
Judicial Review	Asset forfeiture (05) Petition re: arbitration award (11) Writ of Mandate (02) Other judicial review (39)	[] 41 Asset forfeiture [] 62 Pet. re: arbitration award [] 49 Writ of mandate Is this a CEQA action (Publ.Res.Code section 21000 et seq) [] Yes [] No [] 64 Other judicial review
Provisionally Complex	Antitrust / Trade regulation (03) Construction defect (10) Claims involving mass tort (40) Securities litigation (28) Toxic tort / Environmental (30) Ins covrg from cmplx case type (41)	[] 77 Antitrust / Trade regulation [] 82 Construction defect [] 78 Claims involving mass tort [] 91 Securities litigation [] 93 Toxic tort / Environmental [] 95 Ins covrg from complex case type
Enforcement of Judgment	Enforcement of judgment (20)	[] 19 Enforcement of judgment [] 08 Confession of judgment
Misc Complaint	RICO (27) Partnership / Corp. governance (21) Other complaint (42)	[] 90 RICO (G) [] 88 Partnership / Corp. governance (G) [] 68 All other complaints (G)
Misc. Civil Petition	Other petition (43)	[] 06 Change of name [] 69 Other petition

ELECTRONICALLY FILED

Superior Court of California,
County of Alameda

12/03/2021 at 03:56:49 PM

By: Xian-xii Bowie, Deputy Clerk

LINDEMANN LAW FIRM, APC
BLAKE J. LINDEMANN, SBN 255747
DONNA DISHBAK, SBN 259311
433 N. Camden Drive, 4th Floor
Beverly Hills, CA 90210
Telephone: (310) 279-5269
Facsimile: (310) 300-0267
E-Mail: blake@lawbl.com

Attorneys for Plaintiff and the Proposed Class

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

ARNOLD NAVARRO, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

SMILEDIRECTCLUB, INC.; and
SMILEDIRECTCLUB, LLC; JEFFREY
SULITZER; DOES 1-10,

Defendants.

Case No. **21CV003537**

CLASS ACTION

COMPLAINT FOR:

- 1. DECLARATORY RELIEF
CONCERNING AVOIDANCE OF
PATIENT CONTRACTS;**
- 2. RESCISSION OF PATIENT
CONTRACTS;**
- 3. NEGLIGENCE;**
- 4. BREACH OF FIDUCIARY DUTY;**
- 5. UNFAIR BUSINESS PRACTICES
[Cal. B&P Code §§17200, *et seq.*];**
- 6. CONSUMER LEGAL REMEDIES
ACT;**
- 7. FRAUDULENT INDUCEMENT**

Arnold Navarro (“Navarro” or “Plaintiff”), individually and on behalf of all others similarly situated, and the general public, complains and alleges as follows:

I. NATURE OF ACTION

1. Plaintiff brings this Class Action Complaint for legal and equitable remedies based on Defendants’ SmileDirectClub, Inc., SmileDirectClub, LLC, Jeffrey Sulitzer, and DOES 1-10 (collectively, “Defendants”) operation of an enterprise engaging in the unauthorized practice of dentistry. Specifically, Defendants provide dental services to Plaintiff and Class Members without the care, supervision, oversight and legal necessity of having a licensed dentist involved in every step of providing medical services.¹

2. Defendants’ California operation is estimated to be a \$100 million-dollar unauthorized practice of dentistry enterprise, servicing approximately 100,000 California patients. Negative reviews and complaints have flooded messaging boards, online sites, and other places concerning the harmful effects of using Defendants’ services and its teledentistry services to straighten teeth. Eager to “disrupt” modern health care services, Defendants have put the desire for profit ahead of the health of the general public.

II. VENUE

3. Personal jurisdiction and venue are proper because Plaintiff and the proposed Class reside in California and maintain addresses with Defendants in the state of California. Defendants maintain “shops” throughout the State of California, and in this district, including without limitation, at 2140 South Shore Center, Alameda, California 94501.

III. PARTIES

4. Plaintiff and the Class Members are residents, citizens, and patients of the State of California. Plaintiff has resided in the State of California at all times relevant to this action, and has maintained an address with a California address with Defendants. Plaintiff and the Class Members obtained Defendants’ medical services for personal, family, and household purposes in that they

¹ <https://news.bloomberglaw.com/health-law-and-business/smiledirectclub-loses-challenge-to-california-dental-board-rules>. The Dental Board of California has classified Defendants’ storefronts as illegal dentistry practices.

1 sought to straighten their teeth and improve appearance of their teeth. Plaintiff obtained Defendants'
2 services on or about May 28, 2020. Plaintiff was harmed by Defendants' conduct, which included
3 without limitation, making false representations about the quality of services to be performed, and
4 misleading and violating consumer protection laws of California. Plaintiff has had serious issues
5 with his bite, the placement of his teeth, and has sustained significant pain and injury based on
6 Defendants' services.

7 5. Defendant SmileDirectClub, Inc. (referred to in this paragraph as "SDC, Inc.") and
8 Defendant SmileDirectClub, LLC (referred to in this paragraph as "SDC, LLC") collectively own
9 and operate a "teledentistry" company that does business online and at over 300 brick-and-mortar
10 retail locations across the United States. SDC Inc. is a holding company. Its sole material asset is
11 its equity interest in SDC Financial which, through its direct and indirect subsidiaries, conducts all
12 of the Company's operations. SDC Financial is a Delaware limited liability company and wholly
13 owns SDC, LLC, a Tennessee limited liability company. Because SDC Inc. is the managing member
14 of SDC Financial, SDC Inc. indirectly operates and controls all of the business and affairs of SDC
15 Financial and its subsidiaries including of SDC Financial's wholly owned subsidiary SDC, LLC.
16 Thus, both Defendant SDC, Inc. and Defendant SDC, LLC "integrate[] the marketing" for the
17 "teledentistry platform" that is advertised and made commercially available through Defendants'
18 "direct-to-consumer model."

19 6. Defendant Jeffrey Sulitzer DDS, is a dentist who represents his office according to
20 the Board of Dentistry at several addresses, including 1111 Broadway 3rd Floor, Oakland, CA
21 94607, Alameda County. The status of this business license is presently listed as "cancelled."

22 7. Plaintiff is ignorant of the true names and capacities of the Defendants DOES 1
23 through 10, inclusive, whether individual, corporate, associate, or otherwise, and therefore have
24 sued them by the foregoing names, which are fictitious. Plaintiff asks that when their true names
25 and capacities are discovered that this Complaint may be amended by inserting their true names and
26 capacities in lieu of said fictitious names, together with apt and proper words to charge them. All
27 references to any named Defendants shall also refer to said Does. When the true names and
28 capacities are ascertained, Plaintiff will amend this Complaint accordingly. On information and

1 belief, Plaintiff alleges that each of the fictitiously named defendants was responsible in some
2 manner for the acts and omissions alleged herein and are liable to Plaintiff herein.

3 **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

4 8. The Defendants do not conduct an initial exam of Plaintiff and class members'
5 mouths, gums, roots before a diagnosis and treatment plan is discussed with the patient.

6 9. Defendants practiced dentistry by performing, or offering to perform, orthodontic
7 diagnosis and the treatment of malposed teeth, which is the practice of dentistry as defined by Code
8 section 1625, subsection (b).

9 10. Defendants indicated that they would perform orthodontic treatment and construct,
10 alter, repair, or sell orthodontic appliances, which is the practice of dentistry as defined by Code
11 section 1625, subsection (c).

12 11. Defendants managed or conducted as manager, proprietor, conductor, lessor, or
13 otherwise, places where dental procedures were performed, which is the practice of dentistry as
14 defined by Code section 1625, subsection (e).

15 12. Defendants advertised, fabricated, manufactured and sold orthodontic appliances
16 directly to consumers when the casts and/or impressions for the work had not been made or taken
17 by any licensed dentists, and without any written authorization for the work by Defendants or any
18 other dentist, which is the practice of dentistry as defined by Code section 1626, subsection (e).

19 13. Defendants falsely represented that they wholly owned and entirely controlled the
20 subject dental offices and mobile dental units of licensed dentists when they did not.

21 14. Defendants falsely represented that smile could be fixed, and mouth could be fixed
22 without in-patient care and without an initial exam, when that is not legal, nor practical.

23 15. Plaintiff served a pre-suit Consumer Legal Remedies Act ("CLRA") letter via
24 certified mail on certain Defendants on July 30, 2021.

25 16. Defendants contend that they are under an arbitration agreement with Plaintiff and
26 the Class Members. Without conceding whether assent was obtained to any such agreement
27 (Plaintiff has not received adequate and proper evidence of such fact), and expressly reserving the
28 right to contest assent and to raise other issues as to whether the dispute must proceed in Court as
an action for public injunctive relief, each of the Defendants, and there California stores, are

1 “clinics” pursuant to Health and Safety Code § 1200 because they provide “dental” services or
 2 treatment to patients who remain at the various stores less than 24 hours, and they may also provide
 3 diagnostic or therapeutic services to patients as an incident to care provided at the store facility.

4 17. Because each of the Defendants are “clinics,” they are “Health Care Providers” under
 5 *California Code of Civil Procedure § 1295(g)(1)*, which defines a “Health Care Provider” to include
 6 “any clinic...” and the “legal representative” of any health care provider. Dr. Jeffrey Sulitzer who
 7 at times held a license at more than twelve California stores, was at relevant times, operating a
 8 clinic.²

9 18. As a “Health Care Provider,” the purported form arbitration agreement does not
 10 comply with *California Code of Civil Procedure § 1295(a), (b), (c), or (d)*. For this reason alone,
 11 and other reasons to be addressed in an anticipated motion to compel arbitration that Plaintiff expects
 12 Defendants to file, the dispute must be litigated in Court, and the alleged arbitration agreement is
 13 wholly unenforceable as it pertains to this dispute.

14 19. In addition, this action only seeks public injunctive relief, and specifically that the
 15 stores cease from further operations without seeing patients prior to providing services or otherwise
 16 provide enhanced and improved medical services, and that they provide injunctive restitution in the
 17 amount of all monies paid by patients, and that they disgorge all monies, for the illegally operated
 18 dental practice.

19 CLASS ALLEGATIONS

20 20. Class Definition. Plaintiff brings this civil class action on behalf of himself
 21 individually and on behalf of all other similarly situated persons, as a class action pursuant to
 22 California Code of Civil Procedure § 382. The “Class” which Plaintiffs seek to represent is
 23 comprised of and defined as follows:

24 All persons who maintain an address with Defendants in the State of California, at
 25 any time between December 3, 2017, and the present date, who did not disclaim
 26 California citizenship, who enrolled to receive Defendants’ services.

27 21. Excluded from the class are Defendants, their officers and directors, members of the

28 ² <https://www.cnbc.com/2020/02/19/smiledirectclubs-top-dentist-risks-losing-license-in-california-crackdown.html>.

1 immediate families of the foregoing, legal representatives, heirs, successors, or assigns of the
2 foregoing, and any entity in which Defendants have a controlling interest.

3 22. Plaintiff reserves the right to modify the definition of the Class (or add one or more
4 subclasses) after further discovery.

5 23. Plaintiff and all Class members have been impacted and harmed by the acts of
6 Defendants or their affiliates, agents, or subsidiaries acting on their behalf.

7 24. This Class Action Complaint seeks public injunctive relief and restitution in that
8 Defendants market through e-mails, that one can avoid the need for providing aligners. Further,
9 they denote a dollar sign next to Invisalign, and that conversely, there would be no corollary cost
10 with respect to Defendants' products and services.

11 25. Defendants or any affiliates, subsidiaries, or agents of Defendants have acted on
12 grounds generally applicable to the Class, thereby making final injunctive relief and corresponding
13 declaratory relief with respect to the Class as a whole appropriate. Moreover, on information and
14 belief, Plaintiff alleges that the violations complained of herein are substantially likely to continue
15 in the future if an injunction is not entered.

16 26. This action may properly be brought and maintained as a class action pursuant to
17 California Code of Civil Procedure 382 as a restitution class, or in the alternative, as an injunctive
18 relief class. This class action satisfies the numerosity, typicality, adequacy, commonality,
19 predominance, and superiority requirements.

20 27. On application by Plaintiff's counsel for class certification, Plaintiff may also seek
21 certification of subclasses in the interests of manageability, justice, or judicial economy.

22 28. Numerosity. The number of persons within the California-only Class is substantial,
23 believed to amount to approximately 100,000 persons in the State of California. It is, therefore,
24 impractical to join each member of the Class as a named plaintiff. Further, the size and relatively
25 modest value of the claims of the individual members of the Class renders joinder impractical.
26 Accordingly, utilization of the class action mechanism is the most economically feasible means of
27 determining and adjudicating the merits of this litigation.

28 29. Typicality. Plaintiff received medical treatment and services from Plaintiff on or

about May 28, 2020, and at other times. Consequently, the claims of Plaintiff are typical of the claims of the members of the Class, and Plaintiff's interests are consistent with and not antagonistic to those of the other Class members he seeks to represent. Plaintiff and all members of the Class have been impacted by, and face continuing harm arising out of, Defendants' providing the unauthorized practice of dentistry services as alleged herein.

30. Adequacy. As the proposed Class representative, Plaintiff has no interests adverse to or which conflict with the interests of the absent members of the Class, and he is able to fairly and adequately represent and protect the interests of such a Class. Plaintiff has raised viable claims and equitable claims of the type reasonably expected to be raised by members of the Class and will vigorously pursue these claims. If necessary, as the litigation (including discovery) progresses, Plaintiff may seek leave to amend this Class Action Complaint to modify the Class definition set forth above, add additional Class representatives, or assert additional claims. Plaintiff's counsel is experienced in handling class action claims and committed to prosecuting this action.

31. Commonality and Predominance. There are well-defined common questions of fact and law that exist as to all members of the Class and predominate over any questions affecting only individual members of the Class. These common legal and factual questions, which do not vary from Class member to Class member and may be determined without reference to the individual circumstances of any Class member, include (but are not limited to) the following:

- a) Whether Defendants or affiliates, subsidiaries, or agents of Defendants, provided services or products that qualify as medical services;
- b) Whether Defendants or affiliates, subsidiaries, or agents of Defendants, provided services or products that qualify as dentistry services;
- c) Whether Defendants or affiliates, subsidiaries, or agents of Defendants, provided services and products that may only be performed by dentists licensed by the California Board of Dentistry;
- d) Whether Defendants or any affiliates, subsidiaries, or agents of Defendants should be enjoined from engaging in such conduct in the future;
- e) Whether Defendants or any affiliates, subsidiaries, or agents induced consumers into

using dental services and represented or implied, the level of care was the same as if a licensed dentist was involved the entire time;

- f) Whether Defendants violated the California Consumers Legal Remedies Act, Cal. Civ. Code § 1750 *et seq.*, by misrepresenting the nature of their services and products provided.

32. Superiority. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because the prosecution of individual litigation on behalf of each Class member is impracticable. Even if every member of the Class could afford to pursue individual litigation, the court system could not; multiple trials of the same factual issues would magnify the delay and expense to all parties and the court system. Individualized litigation would also present the potential for varying, inconsistent or contradictory judgments. By contrast, the maintenance of this action as a class action, with respect to some or all of the issues presented herein, presents few management difficulties, conserves the resources of the parties and the court system and protects the rights of each member of the Class. Plaintiff anticipates no difficulty in the management of this action as a class action. Class wide relief is essential to compel compliance with only services performed by a licensed dentist, and thus protect consumers' privacy. The interests of Class members in individually controlling the prosecution of separate claims is small because the restitution recoverable in an individual action for violation of an action such as this, are relatively small. Class members can be readily located and notified of this class action by reference to Defendants' records and, if necessary, the records of Defendants' affiliates, agents, or subsidiaries.

33. Additionally, the prosecution of separate actions by individual Class members would create a risk of multiple adjudications with respect to them that would, as a practical matter, be dispositive of the interests of other members of the Class who are not parties to such adjudications, thereby substantially impairing or impeding the ability of such nonparty Class members to protect their interests. The prosecution of individual actions by Class members could also establish inconsistent results and/or establish incompatible standards of conduct for Defendants.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

(Declaratory Relief Concerning Avoidance of Patient Contracts)

34. Plaintiff realleges and incorporates herein by reference all of the allegations set forth in the preceding paragraphs as though fully set forth herein.

35. In their agreement with plaintiff and patients of the proposed class ("Patient Contracts"), Defendants committed to providing certain medical services. A copy of Mr. Navarro's agreement is appended hereto.

36. Specifically, as part of the contractual services provided, the Defendants do not conduct an initial exam of Plaintiff and class members' mouths, gums, roots before a diagnosis and treatment plan is discussed with the patient. Independently, the Defendants practiced dentistry under the patient contracts by performing, or offering to perform, orthodontic diagnosis and the treatment of malposed teeth, which is the practice of dentistry as defined by Code section 1625, subsection (b).

37. As part of the contractual services provided, Defendants represent that they can perform orthodontic treatment and construct, alter, repair, or sell orthodontic appliances, which is the practice of dentistry as defined by Code section 1625, subsection (c).

38. As part of the contractual services provided, Defendants managed or conducted as manager, proprietor, conductor, lessor, or otherwise, places where dental procedures were performed, which is the practice of dentistry as defined by Code section 1625, subsection (e).

39. As part of the contractual services provided, Defendants advertised, fabricated, manufactured and sold orthodontic appliances directly to consumers when the casts and/or impressions for the work had not been made or taken by any licensed dentist and without any written authorization for the work by Sulitzer or any other dentist, which is the practice of dentistry as defined by Code section 1626, subsection (e).

40. An actual case or controversy exists over whether the Patient Contracts are illegal contracts, void, unenforceable, void against public policy, and unenforceable because the Patient Contracts contemplating providing services and products that require a license, and no licensed dentist actually rendered care.

41. California has a strong interest in protecting patients from unlicensed medical care.

42. Accordingly, Plaintiff and the Class seek a declaratory judgment finding that the Patient Contracts are avoidable, void, illegal, unenforceable, and unconscionable in accordance with the above facts and law.

SECOND CAUSE OF ACTION

(Rescission of Patient Contracts)

43. Plaintiff realleges and incorporates herein by reference all of the allegations set forth in the preceding paragraphs as though fully set forth herein.

44. *California Civil Code Section 1689(b)(5)* provides that a contract may be rescinded “[i]f the unlawful contract is unlawful for causes which do not appear in its terms or conditions, and the parties are not equally at fault.”

45. *California Civil Code Section 1689(b)(6)* provides that a contract may be rescinded “[i]f the public interest will be prejudiced by permitting the contract to stand.”

46. The Corporate Practice of Medicine Doctrine (the “CPOM Doctrine”) applies in California.

47. California’s anti-fee splitting ban is rooted in *Business and Professions Code Section 650(a)*. The statute prohibits physicians and other licensed professionals from offering or receiving rebates, refunds, commissions or other consideration, as compensation or inducement for the referral of patients, clients or customers to any person. Here, several dentists including Mr. Sulitzer, and other DOE dentists, received rebates refunds and other consideration as compensation for inducement of referral of patients to Defendants business, and such consideration was not commensurate with the value of the services furnished by Mr. Sulitzer and the DOE defendants, nor the fair rental value of any premises or equipment eased or provided.

48. At least 51% of the shareholders of a corporation providing medical services, must be medical professionals licensed to deliver the primary category of medical services provided by the professional corporation. *Moscone-Knox Professional Corporation Act*, CA Corps Code § 13401.5.

1 49. In their agreement with plaintiff and patients of the proposed class, Defendants
2 agreed to provide certain medical services. A copy of Mr. Navarro's agreement is appended hereto.

3 50. Specifically, as part of the contractual services provided, the Defendants do not
4 conduct an initial exam of Plaintiff and class members' mouths, gums, roots before a diagnosis and
5 treatment plan is discussed with the patient. Independently, the Defendants practiced dentistry under
6 the patient contracts by performing, or offering to perform, orthodontic diagnosis and the treatment
7 of malposed teeth, which is the practice of dentistry as defined by Code section 1625, subsection
8 (b).

9 51. As part of the contractual services provided, Defendants advise that they can perform
10 orthodontic treatment and construct, alter, repair, or sell orthodontic appliances, which is the practice
11 of dentistry as defined by Code section 1625, subsection (c).

12 52. As part of the contractual services provided, Defendants managed or conducted as
13 manager, proprietor, conductor, lessor, or otherwise, places where dental procedures were
14 performed, which is the practice of dentistry as defined by Code section 1625, subsection (e).

15 53. As part of the contractual services provided, Defendants advertised, fabricated,
16 manufactured and sold orthodontic appliances directly to consumers when the casts and/or
17 impressions for the work had not been made or taken by any licensed dentist and without any written
18 authorization for the work by Sulitzer or any other dentist, which is the practice of dentistry as
19 defined by Code section 1626, subsection (e).

20 54. Based on the foregoing, the Patient Contracts are unlawful for causes which do not
21 appear in the terms or conditions of the contract. Specifically, the Patient Contracts concern the
22 unauthorized practice of dentistry which is an unlawful cause that does not appear in the terms and
23 conditions.

24 55. Plaintiff and the Class are not equally at fault.

25 56. Alternatively, and based on the foregoing, the public interest will be prejudiced by
26 permitting the Patient Contracts to stand.

27 57. The public interest will be prejudiced by permitting the Patient Contracts to stand
28 because the public has an interest in obtaining quality medical treatment by licensed professionals.

1 In addition, the public interest will be prejudiced by permitting contracts involving unlicensed
2 dentistry clinics to stand.

3 58. Alternatively, the Patient Contracts would prejudice the public, and are void, because
4 the contracting party is not properly licensed and incorporated under California Law as a
5 “professional” corporation, as it must, and 51% of the Defendants’ corporations are not owned by
6 professionals licensed in California.

7 59. Alternatively, the public interest would be prejudiced because Defendants and their
8 clinics, have violated *Business and Professions Code Section 650(a)*.

9 60. As a result of the foregoing, the patient contracts must be rescinded, and Plaintiff and
10 the Class are entitled to injunctive relief in the form of correction of the foregoing violations,
11 restitution in the form of all monies paid by Plaintiff and the Class Members to the Defendants,
12 interest, costs, disgorgement, and attorney’s fees.

13 THIRD CAUSE OF ACTION

14 (Negligence)

15 61. Plaintiff realleges and incorporates herein by reference all of the allegations set forth
16 in the preceding paragraphs as though fully set forth herein.

17 62. Based on the unauthorized practice of dentistry, Defendants were negligent in
18 rendering care to the Plaintiff and the Class Members.

19 63. Specifically, the Defendants do not conduct an initial exam of Plaintiff and class
20 members’ mouths, gums, roots before a diagnosis and treatment plan is discussed with the patient,
21 which is negligent.

22 64. Independently, the Defendants practiced dentistry by performing, or offering to
23 perform, orthodontic diagnosis and the treatment of malposed teeth, which is the practice of
24 dentistry as defined by Code section 1625, subsection (b). Providing such services without a license
25 falls below the standard of care, and renders Defendants liable on a strict liability basis. Defendants
26 owed a duty to Plaintiff and the Class members because it undertook to provide medical services to
27 Plaintiff and Class members.

28 65. The Defendants advise that they can perform orthodontic treatment and construct,

1 alter, repair, or sell orthodontic appliances, which is the practice of dentistry as defined by Code
 2 section 1625, subsection (c). Providing such services or rendering advice pertaining to such
 3 services, without a license, falls below the standard of care, and renders Defendants liable on a strict
 4 liability basis.

5 66. The Defendants managed or conducted as manager, proprietor, conductor, lessor, or
 6 otherwise, places where dental procedures were performed, which is the practice of dentistry as
 7 defined by Code section 1625, subsection (e). Providing such services or rendering advice
 8 pertaining to such services, without a license, falls below the standard of care, and renders
 9 Defendants liable on a strict liability basis.

10 67. The Defendants advertised, fabricated, manufactured and sold orthodontic
 11 appliances directly to consumers when the casts and/or impressions for the work had not been made
 12 or taken by any licensed dentist and without any written authorization for the work by Sulitzer or
 13 any other dentist, which is the practice of dentistry as defined by Code section 1626, subsection (e).
 14 Providing such services or rendering advice pertaining to such services, without a license, falls
 15 below the standard of care, and renders Defendants liable on a strict liability basis.

16 68. The unlicensed work caused Plaintiff and the Class members to pay monies for
 17 services, and they were harmed by the unlicensed work and damages they sustained.

18 **FOURTH CAUSE OF ACTION**

19 **(Breach of Fiduciary Duty)**

20 69. Plaintiff realleges and incorporates herein by reference all of the allegations set forth
 21 in the preceding paragraphs as though fully set forth herein.

22 70. A relationship of special trust and confidence existed between Defendants, on the
 23 one hand, and Plaintiff and the proposed class members, on the other hand, by virtue of the
 24 Defendants' professed special skill, knowledge, and expertise, the relationship of mutual
 25 confidence, and the established course of dealing between them.

26 71. As a result of this special relationship of trust and confidence existing between
 27 Defendants and Plaintiff and the proposed class members, defendants owed to plaintiff and the
 28 proposed class members a fiduciary duty of loyalty, utmost good faith, competence, and diligence.

72. Because of their actions and omissions alleged here, including but not limited to the unauthorized practice of dentistry, Defendants breached their fiduciary duties to Plaintiff and the proposed class members, and failed to competently and diligently carry out his responsibilities.

73. As a direct and proximate result of defendants' breach of fiduciary duties, plaintiff and the proposed class members have been damaged as described here, and are entitled to recover damages, as well as a disgorgement of monies retained by defendants.

FIFTH CAUSE OF ACTION

(Unfair Business Practices [Cal. B&P Code §§17200, *et seq.*])

74. Plaintiff realleges and incorporates herein by reference all of the allegations set forth in the preceding paragraphs as though fully set forth herein.

75. Defendants' acts and omissions alleged here violate the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et seq.* Section 17200 prohibits unfair competition by engaging in, among other things, any unlawful or unfair business acts or practices.

76. California Business & Profession Code §2052(a) prohibits the practice of medicine without a valid license.

77. Defendants committed acts of unfair competition, as defined by the Unfair Competition Law, by, among other things, engaging in the acts and omissions alleged in the Complaint. Also, defendants committed such acts and omissions with the intent and objective of deceiving consumers and putting profits ahead of patient care.

78. Defendants do not conduct an initial exam of Claimant and class members' mouths, gums, roots before a diagnosis and treatment plan is discussed with the patient.

79. Defendants practiced dentistry by performing, or offering to perform, orthodontic diagnosis and the treatment of malposed teeth, which is the practice of dentistry as defined by Code section 1625, subsection (b).

80. Defendants indicated that it would perform orthodontic treatment and construct, alter, repair, or sell orthodontic appliances, which is the practice of dentistry as defined by Code section 1625, subsection (c).

81. Defendants managed or conducted as manager, proprietor, conductor, lessor, or otherwise, places where dental procedures were performed, which is the practice of dentistry as defined by Code section 1625, subsection (e).

82. Defendants advertised, fabricated, manufactured and sold orthodontic appliances directly to consumers when the casts and/or impressions for the work had not been made or taken by any licensed dentist (Sulitzer or otherwise) and without any written authorization for the work by Sulitzer or any other dentist, which is the practice of dentistry as defined by Code section 1626, subsection (e).

83. As a direct and proximate result of defendants' acts and omissions alleged here, plaintiffs and the proposed class members have suffered and continue to suffer direct and substantial injury, and defendants received and continue to hold, and to unlawfully profit from, ill-gotten gains rightfully belonging to plaintiff and the proposed class members.

SIXTH CAUSE OF ACTION

(California Consumer Legal Remedies Act)

84. Plaintiff realleges and incorporates herein by reference all of the allegations set forth in the preceding paragraphs as though fully set forth herein.

85. By their actions and omissions alleged here, defendants engaged in unfair or deceptive practices or acts in their representation of plaintiff and the proposed class members, in violation of the California Consumers Legal Remedies Act. Specifically, and without limitation, defendants by providing services required to be licensed, and misrepresenting the corporate status of a company that had a licensed doctor: (1) misrepresented the source of their services in violation of Cal. Civ. Code § 1770(2); and (2) misrepresented the affiliation, connection, or association with the entity giving rise to the conflict of interest, in violation of Cal. Civ. Code § 1770(3).

86. As a direct and proximate result of Defendants' violation of the California Consumers Legal Remedies Act, plaintiff and the proposed class members have been injured as described here. Defendants have acted in bad faith, and have shown willful misconduct, malice, fraud, wantonness, or oppression or that entire want of care which would raise the presumption of conscious indifference to consequences. As a direct and proximate result of defendants' actions and

omissions alleged here, plaintiff and the proposed class members have been injured, and are entitled to injunctive relief.

SEVENTH CAUSE OF ACTION

(Fraudulent Inducement)

87. Plaintiff realleges and incorporates herein by reference all of the allegations set forth in the preceding paragraphs as though fully set forth herein.

88. Defendants falsely represented to the Class that a licensed dentist wholly owned and entirely controlled the subject dental offices and mobile dental units when he did not.

89. Defendants performed or otherwise permitted orthodontic treatment on persons who were not his patient of record and/or allowed the construction of orthodontic appliances without any written authorization for the work by Defendant or any dentist working under him.

90. Defendants falsely represented that smile could be corrected or fixed, and that class members' teeth could be fixed and straightened without in-patient care and without an initial exam.

91. When Defendants made these representations, they had no reasonable ground for believing them to be true.

92. Defendants made such material misrepresentations with the intention of inducing Plaintiff to undergo unnecessary dental surgeries and other radical and invasive dental treatment, all to Plaintiff's detriment.

93. Plaintiff, was ignorant of the falsity of Defendants' representations perceived and made on or about the time of treatment of May 2020, and believed them to be true. In justifiable reliance on these representations, Plaintiff was induced to undergo treatment, all of which Plaintiff would not have agreed to had he known the actual facts.

94. As a proximate result of the misrepresentations made by Defendants, Plaintiff has sustained injury to his health, strength and activity, all of which injuries have caused, and continue to cause, Plaintiff great mental, physical and nervous pain and suffering.

95. As a further proximate result of the misrepresentations made by Defendants, Plaintiff has sustained, and will continue to sustain, serious and permanent physical and emotional injuries, all to Plaintiff's general damage in an amount according to proof.

1 96. As a further proximate result of the misrepresentations made by Defendants, Plaintiff
2 has incurred medical, hospital, psychological and related expenses in an amount according to proof.

3 97. As a further proximate result of the misrepresentations made by Defendants, Plaintiff
4 will in the future incur medical, hospital, psychological and related expenses, the exact nature and
5 extent of which are currently unknown to Plaintiff.

6 98. As a further proximate result of the misrepresentations made by Defendant, and each
7 of them, Plaintiff has sustained loss of earnings and loss of earning capacity, the exact nature and
8 extent of which are currently unknown to Plaintiff.

9 99. Defendant Sulitzer is subject to disciplinary action for unprofessional conduct under
10 Code section 1680, subdivision (w), in that he used fraud in the procurement of permits issued
11 pursuant to the Dental Practice Act, Code sections 1600, *et seq.*

12 100. Specifically, when applying for FNPs for various dental offices located throughout
13 California, Mr. Sulitzer represented under penalty of perjury that he wholly owned and entirely
14 controlled the subject offices. These representations were false. The subject dental offices were in
15 fact owned and controlled, either entirely or in part, by the Smile Direct entities.

16 101. Further, when applying for AOPs for the various dental offices located throughout
17 California, Defendant Sulitzer represented under penalty of perjury that:

18 i He accepted legal responsibility and liability for dental services rendered in the
19 offices;

20 ii The offices were in compliance with section 1658.1 and all other applicable State
21 and Federal laws, including that the offices were in compliance with the supervision requirements
22 of the Dental Practice Act; and,

23 iii In the offices there was visibly posted in an area likely to be seen by all patients using
24 the facility a sign with Sulitzer's name, mailing address, telephone number, and dental license
25 number.

26 102. Sulitzer's representations were false. The true facts were that Sulitzer did not accept
27 legal responsibility and liability for dental services rendered in the dental offices. Instead, patients
28 presenting at the offices were requested to execute informed consent forms in which it was stated:

1 “I release [the Company] from liability for any claims by me or any third party in connection with
2 my participation or use of the invisible aligner treatment,” tending to deceive patients into believing
3 that they have no legal recourse for the aligner treatment that Sulitzer was supposedly to render.

4 103. Further, the San Francisco Office, Oakland Office, and L.A. Office were not in
5 compliance with section 1658.1 and all other applicable state and federal laws as Sulitzer had
6 affirmatively represented because:

7 i As alleged in greater detail below in paragraph 57, the offices failed to comply with
8 the supervision requirements of the Dental Practice Act in that dental assistants were permitted to
9 take without direct supervision health histories and intraoral 3D scan impressions of patients’
10 dentition for the purpose of orthodontic diagnosis and treatment planning, including for the
11 fabrication and manufacture of orthodontic aligners, in violation of Code section 1750.1,
12 subsections (b)(3) and (b)(8); and/or,

13 ii Sulitzer failed to post in the dental offices any:
14 a) Signage as required by section 1658.1, subsection (c);
15 b) Notice of Licensure as required by title 16, CCR section 1065;
16 c) Copy of title 16, CCR section 1005 (pertaining to minimum standards for infection
17 control) as required by title 16, CCR section 1005, subsection (b)(3); and/or,
18 d) Dental auxiliary duties as required by title 16, CCR section 1068.

19 104. As alleged above, Defendants made a number of representations concerning their
20 business, including that this was a way for normal people to obtain incredible financial success.

21 105. Defendants’ representations described above were false. However, despite knowing
22 of the falsity of their representations, Defendants concealed, and/or failed to disclose material and
23 contrary facts set forth above.

24 106. Defendants had a duty to disclose this information to their patients because: it is
25 material information that would reflect the fraudulent nature of the business, and Defendants knew
26 the information was not reasonably discoverable by their patients; Defendants made affirmative
27 representations that were contrary and misleading without the disclosure of this information; and/or
28 Defendants actively concealed this information from their patients, the government and the public.

107. Defendants concealed and failed to disclose these material facts with the intent to deceive Plaintiff and the Class, including but not limited to risks of engaging in dental practices without conducting an initial exam.

108. Defendants' concealments and non-disclosure of material facts as set forth above were made with the intent to induce Plaintiffs and the Class to seek services.

109. Plaintiff and the Class, at the time these failures to disclose and suppressions of facts occurred, and at the time Plaintiff and the Class sought services, were ignorant of the existence of the facts that Defendants suppressed and failed to disclose. If Plaintiff and the Class had known of Defendants' concealments and failures to disclose material facts, they would not have taken the actions they did, including but not limited to seeking dental services from Defendants.

110. Plaintiff and the Class' reliance was justified and reasonable as they had no basis to doubt the original representations made to them, nor did they have reason to believe they were being misled or material facts were being concealed from them.

111. As a direct and proximate result of the above, Plaintiff and the Class have suffered damages in an amount to be proven at trial.

112. Defendants undertook the aforesaid illegal acts intentionally or with conscious disregard of the rights of Plaintiff and the Class, and did so with fraud, oppression, and/or malice. This despicable conduct subjected Plaintiffs and the Class to cruel and unjust hardship so as to justify an award of punitive damages in an amount sufficient to deter such wrongful conduct in the future. Therefore, Plaintiff and the Class are also entitled to punitive damages against Defendants in an amount to be determined at trial. Plaintiff realleges all allegations as if fully set forth herein, and incorporate previous allegations by reference.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Arnold Navarro prays for relief and judgment in favor of himself and the Class as follows:

A. Injunctive relief sufficient to ensure Defendants refrain from violating the above statutes and disgorgement of all monies paid by patients to Defendants as restitution during the Class Period;

1 B. An Order certifying this action to be a proper class action, establishing an appropriate
2 Class and any Subclass(es) the Court deems appropriate, finding that Plaintiff is proper
3 representative of the Class, and appointing the attorneys representing Plaintiff as counsel for the
4 Class; and

5 C. An award of attorneys' fees, interest, and costs to Plaintiff's counsel, payable from
6 any class-wide damages recovered by the Class.

7 D. An award of punitive damages.

8
9 DATED: December 3, 2021

Respectfully submitted,

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12 Blake J. Lindemann
13 California Bar No. 255747
14 E-mail: blake@lawbl.com
15 Donna R. Dishbak
16 California Bar No. 259311
17 E-mail: donna@lawbl.com
18 **LINDEMANN LAW FIRM, APC**
19 433 N. Camden Drive, 4th Floor
20 Beverly Hills, CA 90210
21 Telephone No: 310-279-5269
22 Facsimile No: 310-300-0267

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28 *Attorneys for Plaintiff and the Proposed Class*

DEMAND FOR JURY

Plaintiff requests a trial by jury on all issues so triable.

DATED: December 3, 2021

Respectfully submitted,



Blake J. Lindemann
California Bar No. 255747
E-mail: blake@lawbl.com
Donna R. Dishbak
California Bar No. 259311
E-mail: donna@lawbl.com
LINDEMANN LAW FIRM, APC
433 N. Camden Drive, 4th Floor
Beverly Hills, CA 90210
Telephone No: 310-279-5269
Facsimile No: 310-300-0267

Attorneys for Plaintiff and the Proposed Class